IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 12TH MARCH, 2007 / 21ST PHALGUNA, 1928

ST.Rev..No. 84 of 2007

(TA.123/2001 of KERALA SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOTTAYAM)
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PETITIONER/RESPONDENT:

K.C.JOY, KOOZHITHALAVANANTTU HOUSE,
S.H.MOUNT P.O., KOTTAYAM-686 006.

BY ADV. SRI.C.K.THANU PILLAI
SRI.T.K.SHAIJ RAJ

RESPONDENT/APPELLANT:

STATE OF KERALA.
REPRESENTED BY GOVERNMENT PLEADER,
HIGH COURT OF KERALA.

BY SPL.GOVT.PLEADER FOR TAXES SRI.V.V.ASOKAN.

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 12/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN,Ag.C.J & M.N.KRISHNAN,J.

S.T.R. NO. 84 OF 2007

Dated this the 12th day of March, 2007

J U D G M E N T

Radhakrishnan, Ag.C.J.

Heard counsel on either side.

2. Cogent reasons have been stated by the Tribunal in upsetting the order passed by the First Appellate Authority. The Tribunal found that all the facts together established that all the turn over declared by the respondent including 20% gross profit was not acceptable. The assessing authority estimated the turnover of the purchases effected from K.S.B.C. adding back 30% gross profit and this was reduced by the First Appellate Authority to 20%. The Tribunal found that the estimation of the turnover adding back 30% gross profit effected by the assessing authority was warranted by the facts of the case and it was restored by the Tribunal.

3. The Tribunal also found that declaration of turn over at Rs.3,60,48,754/- as against the purchase of Rs.6,16,68,947/- speaks of the malicious intention in suppressing the transactions. It was also found that the fact that all the inspections revealed that the respondent had not

been maintaining books of accounts, also called for an addition to the accounted purchases. The estimation adopting 30% gross profit is in respect of accounted purchases only. The addition effected by the assessing authority was 1%. Since the modification reducing the addition from 1% to ½% was found to be not justified, the Tribunal restored 1% addition. We find that the Tribunal is justified in passing the order in the above appeal.

3. Counsel for the petitioner submits that he may be given an opportunity to file representation for exemption from paying interest. He relies on the decision of this Court reported in **P.K.Damodaran** v. **State of Kerala** [(2004)12 KTR 133]. The respondent may take note of the same and pass appropriate orders if a request is made to that effect.

The Revision is accordingly dismissed.

K.S.RADHAKRISHNAN,
Acting Chief Justice

M.N.KRISHNAN,
Judge

Mbs/

Mbs/

K.THANKAPPAN, J

Crl.Appeal NO. OF 2001

J U D G M E N T

DATED:13-02-2007